From: Mariam L. Hafezi
To: Amy Bowne
Subject: Comment Regarding Proposal 18-01
Date: Thursday, May 02, 2019 4:25:12 PM
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Good afternoon,

I represent injured plaintiffs in all types of personal injury cases.

For years, there was a standard HIPAA order that ensured protection of the injured plaintiff while allowing the defendant to secure the necessary medical information to defend the claim at hand. The order provided for the ability to share the medical information with consultants and experts. Most importantly, it required the information to be destroyed at the conclusion of the litigation.

State Farm decided that it wanted more. It wanted to not only retain the medical information of injured plaintiffs, but USE that information for nefarious reasons – to create databases of injuries and use for future claims. It wanted unfettered rights to all of a patient's medical information – even if it wasn't related to the injury at hand – and to bank it for future use.

They decided to ask the Court to change the HIPAA order and it was so changed. Now, the burden is on the injured party to get and sign this HIPAA that waives their constitutional right to privacy, as well as for any uses so chosen by State Farm and other casualty insurance companies.

With all due respect, when a person is sitting at a red light and gets slammed and it causes injury, and then the defendant insurance carrier fails to properly value the claim forcing litigation, and then further forces the injured party to be strong-armed into waiving their constitutional right to privacy in exchange for access to their day in court is simply wrong.

And asking the plaintiffs and their attorneys to put them in that position of Sophie's Choice is unfair. No one is immune from a personal injury. No plaintiff asks to be injured. Yet it happens all day every day. This proposed change to SCR 218 as a matter of procedure is simply wrong.

And it should be noted, that in all of the cases I handle that are non-auto, non-State Farm cases, these HIPAA orders make no sense and they have no issue using the prior version. Why? Because they don't have nefarious goals to create databases in order to further avoid good faith payment of claims.

State Farm's purported reason for this change is to be able to maintain their records in accordance with the Illinois Insurance Code. By all means, retain the information in storage for the 7 requisite years post-conclusion. There is no reason to take that information out and think of different ways to use a person's private, protected health information outside of the claim at hand.

If you have any questions or if there is any additional information you need, please feel free to reach out.

Thank you!

Mariam

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